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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
AU, SCOTT D	

ART UNIT	PAPER NUMBER
2635	8

DATE MAILED: 07/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/883,756	MORRISON, BRIAN	
	Examiner	Art Unit	
	Scott Au	2635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 May 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-22* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *03 May 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

This communication is in response to applicant's response to an Amendment which is filed May 3, 2004.

An Amendment to the claims 1-17 have been entered and made of record in the Application of Morrison for a "Remote signal transmission control including compensation for variations in transmitter components" filed June 18, 2001.

The new set claims 18-22 are introduced.

Claims 1-22 are pending.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-10,14-19 and 21-22 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Referring to claims 1 and 14, nowhere in the specification describe the limitations that "causing the microprocessor to utilize the correction factor in all subsequent signal transmissions". According to the specification on page 2 lines 8-9, cited "A

microprocessor portion of the transmitter is then programmed to utilize the correction factor in subsequent signal transmissions". It could utilize the correction factor in "some" subsequent signal transmission. Therefore, the claims fail to teach the limitations. The limitations contain new subject matter. Examiner treats as "causing the microprocessor to utilize the correction factor in subsequent signal transmissions".

Referring to claims 18 and 21, nowhere in the specification describe the limitations that "wherein step (C) is only performed once for an entire service life of the transmitter". This limitation contains new subject matter.

Regarding claims 2-10,15-17,19 and 22 are rejected because the claims are dependent upon claims 1 and 14.

Response to Arguments

Applicant's amendments and argument to the rejected claims are insufficient to distinguish the claimed invention from the cited prior arts to overcome the rejection of said claims under 35 U.S.C 103(a) as discussed below. Applicant's amendment and argument with respected to the pending claims 1-22, filed May 3, 2004, have been fully considered but they are not persuasive for at least the following reasons and arguments are moot in view of the new ground(s) of rejection.

On page 9, fifth paragraph, Applicant's argument that the prior art is not the same as claim 1 "where a test signal is used to determine a correction factor that is then used

by a microprocessor for all subsequent signal transmissions. In other words, the claimed arrangement involves a single correction", is not persuasive.

Applicant's arguments are narrower than what is actually claimed in claim 1. Nowhere do the claim limit the inventions where a test signal is used to determine a single correction factor that is then used by a microprocessor for all subsequent signal transmissions. The claim only claims for causing the microprocessor to utilize the correction factor in every/all subsequent signal transmissions. Moore suggests causing the microprocessor to utilize a calculated correction factor in every/all subsequent signal transmissions (col. 9 lines 54-68; see Figure 5).

On page 10, second paragraph, Applicant's arguments with respect to the invention in Moore in view Kelly III, there is no motivation for making the combination and no prima facie case of obviousness, is not persuasive.

In response to Applicant's argument that there is no suggestion to combine the references, the Examiner recognizes that references cannot be arbitrarily combined and that there must be some reason why one skilled in the art would be motivated to make the proposed combination of primary and secondary references. *In re Nomiya*, 184 USPQ 607 (CCPA 1975). However, there is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is what the combination of disclosures taken as whole would suggest to one of ordinary skill in the art. *In re McLaughlin*, 170 USPQ 209 (CCPA 1971).

Moore discloses the base communication unit 104 used in the two-way radio communication system 100 in accordance with the preferred embodiment of the

present invention comprises an antenna 302 for sending radio signals to and intercepting radio signals from the portable communication unit 108. A radio frequency (RF) package 304 coupled to the antenna 302 comprises a transmitter 301 for transmitting the radio signals, and a receiver 303 for receiving the radio signals.

An output of the receiver 303 is coupled through a conventional analog-to-digital (A/D) converter 308 to a digital signal processor (DSP) 310 for analyzing the received signal. Preferably the DSP 310 is the DSP56000 digital signal processor manufactured by Motorola, Inc. of Schaumburg, Ill. The DSP 310 is coupled to a first random access memory (RAM) 312 for interworking with the DSP 310. The DSP 310 is further coupled to a read-only memory (ROM) 314 containing firmware to support processing requirements of the DSP 310, including a processing element 316 for determining a frequency correction factor for the portable communication unit 108, and a received signal strength indicator (RSSI) element 306 for enabling the DSP 310 to measure the power of a received signal on the initiation channel 202. The DSP 310 is also coupled to a base frequency reference 318, comprising a conventional precision crystal oscillator for providing precision timing to the DSP 310 for determining the frequency correction factor (col. 6 lines 17-54). Further, Moore discloses an encoder/decoder 406 is coupled to the RF package 404 for encoding and decoding data transmitted to and received from the portable communication unit 108 in any of a number of well-known signaling protocols. The encoder/decoder 406 is coupled to a processor 408 for processing the data decoded by the encoder/decoder 406 and for sending data to the encoder/decoder 406 for encoding for transmission by the transmitter 401. The

processor 408 is further directly coupled to the RF package 404 for providing control signals thereto. The processor 408 is also coupled to a RAM 410 for storing operating variables used by the processor 408. The operating variables comprise a received frequency correction factor 434, a received selective call address 436, a received power correction factor 438, an assigned data channel 440, and an assigned time 442. The operating variables 434, 436, 438, 440, 442 are received in a transmission from the base communication unit 104 after an initial transmission of carrier from the portable communication unit 108.

In the same field of endeavor of controlling a microprocessor performance, Kelly III discloses a MICROPROCESSOR 109 includes an internal timer circuit that operates continuously from the time MICROPROCESSOR 109 leaves its reset state after initial application of power. The reset time is determined by capacitor 205 (FIG. 2). Crystal 203 and capacitor 207 are connected to MICROPROCESSOR 109 and operate an internal oscillator at 4 Mhz, shown in FIG. 18 as block 1801 and also in FIG. 15 (col. 7 lines 10-16).

One of ordinary skill in the art understands that the idea of having an oscillator resident within the microprocessor of Kelly III is desirable in the communication unit (108) of Moore because Moore discloses the Digital Signal Processor (310) is coupled to an oscillator (318) for the determining the frequency correction factor (col. 6 lines 49-51) and Kelly III teaches an oscillator is within the microprocessor (col. 7 lines 10-16). Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to include of having an oscillator resident within the

microprocessor of Kelly III in the communication unit of Moore with the motivation for doing so would allow reduced of cost and space to produce the products. The examiner maintains that the references cited and applied in the last office actions for the rejection of the claims are maintained in this office action.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1-7 and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Moore (US# 5,450,617).

Referring to claim 1, Moore discloses a method of controlling signal transmission from a transmitter (104) (i.e. base communication unit) having an oscillator (318) (i.e. base frequency reference, such as an oscillator) (col. 6 lines 48-54; see Figure 3), a transmitter portion (301) (i.e. a transmitter) and a microprocessor (310) (i.e. digital signal processor) that drives the transmitter portion (301) (i.e. a transmitter), comprising the steps of:

(A) generating a test signal (i.e. an unmodulated carrier signal) having an expected timing characteristic (i.e. a predetermined frequency) (col. 9 lines 15-18; see Figure 5);

(B) determining whether the actual timing characteristic (i.e. an initiation frequency) of the test signal (i.e. unmodulated carrier signal) corresponds to the expected timing characteristic (i.e. the predetermined frequency) (col. 9 lines 18-21; see Figure 5);
(C) determining a correction factor (326) (i.e. correction factor) using a difference between the actual (i.e. an initiation frequency) and expected timing characteristics (i.e. a predetermined frequency) (col. 2 lines 8-10 and col. 9 lines 21-32; see Figure 5); and
(D) causing the microprocessor (310) (i.e. digital signal processor) to utilize the correction factor (326) (i.e. correction factor) in all subsequent signal transmissions (col. 9 lines 54-68; see Figure 5) .

Referring to claim 2, Moore discloses a method of claim 1, wherein step (D) includes programming the microprocessor (310) (i.e. digital signal processor) to alter the timing of signal generation (col. 6 lines 66-67).

Referring to claim 3, Moore discloses a method of claim 1, wherein the timing characteristic is a duty cycle of the signal (col. 2 lines 58-62 and col. 3 lines 8-23).

Referring to claim 4, Moore discloses a method of claim 1, including determining an amount of distortion of the duty cycle caused by the transmitter portion and using the amount of distortion to determine the correction factor (col. 2 lines 5-10, 41-51 and 58-62).

Referring to claim 5, Moore discloses a method of claim 1, wherein the timing characteristic is a frequency of the signal (col. 2 lines 5-10 and 65-67 and col. 3 lines 21-23).

Referring to claim 6, Moore discloses a method of claim 5, including determining an amount of distortion (430) (i.e. a frequency recalibration element) of the frequency caused by the oscillator (432) (i.e. a portable frequency reference, such as an oscillator) and using the amount of distortion to determine the correction factor (col. 8 line 66 to col. 9 line 4).

Referring to claim 7, Moore discloses a method of claim 1, wherein the timing characteristic includes a duty cycle and a frequency of the signal and including using a first correction factor to compensate for any difference between the actual duty cycle and the expected duty cycle and a second correction factor to compensate for any difference between the actual frequency and an expected frequency (col. 2 lines 5-10).

Referring to claim 19, Moore discloses a method of claim 1, including providing a one-way transmitter and using one-way transmitter when performing steps (A) and (D). It is inherent that a transmitter is a one-way transmitting device.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore (US# 5,450,617) in view of Dorenbosch et al. (US# 5,801,639).

Referring to claim 8, Moore discloses the method of claim 1. However, Moore did not explicitly disclose wherein step (D) includes programming the microprocessor to use a different baud rate for signal transmission than baud rate used when performing step (A).

In the same field of endeavor of communication method, Dorenbosch et al. disclose wherein step (D) includes programming the microprocessor to use a different baud rate for signal transmission than baud rate used when performing step (A) (col. 4 lines 40-49) in order for the controller either decreases or increases the transmission baud rate of the third message according to the interference level measured by transceiver (SCT).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to include wherein step (D) includes programming the processing system to use a different baud rate of the message according to the

interference level measured by the transceiver (SCT) disclosed by Dorenbosch et al. into communication method of Moore with the motivation for doing so would allow the measurement of signal transition over time.

Referring to claim 10, Moore in view of Dorenbosch disclose the method of claim 1, Dorenbosch et al. disclose further wherein step (D) includes altering a baud rate (i.e. transmission data rate) used by the microprocessor (412) (i.e. processing system) when generating a feed signal that drives the transmitter portion (col. 4 lines 40-49 and col. 6 lines 47-58; see Figure 4).

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moore (US# 5,450,617) in view of Kirchner et al. (US# 4,665,519)

Referring to claim 9, Moore discloses the method of claim 1. However, Moore did not explicitly disclose determining a timer coefficient that uses a timer operation characteristic of a timer within the microprocessor and applying the timer coefficient to the baud rate of signal generation.

In the same field of wireless communication method, Kirchner et al. disclose determining a timer coefficient that uses a timer operation characteristic of a timer (24) (i.e. a timer) couple to the microprocessor (22) (i.e. CPU) within a wireless modem and applying the timer coefficient to the baud rate of signal generation (col. 7 lines 22-26;

see Figure 5A) in order to decrease internal heat generation, increase system noise immunity, and to allow the modem to operate on battery power.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to include determining a timer coefficient that uses a timer operation characteristic of a timer couple to the CPU within a wireless modem and applying the timer coefficient to the baud rate of signal generation disclosed by Kirchner et al. into communication method of Moore with the motivation for doing so would allow a timer value is used to generate a baud rate for signal transmission. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to include a timer within the microprocessor, since it has been held that rearranging parts of an invention involves only routine skill in the art.

Claims 11 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore (US# 5,450,617) in view of Kelly III (US# 4,811,255) and further in view of Dorenbosch et al. (US# 5,801,639).

Referring to claim 11, "remote keyless entry system" is in a preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See In re Hirao, 535 F.2d 67, 190

USPQ 15 (CCPA 1976) and Kropa v. Robie, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Referring to claim 11, Moore discloses transmitter (i.e. two-way communication system between base communication unit (104) and portable communication unit (108)), comprising: a microprocessor (310) (i.e. digital signal processor); an oscillator (318) (i.e. a base frequency reference, such as oscillator) that is couple to a microprocessor resident within (104) (i.e. a base communication unit); and a transmitting portion (301) (i.e. a transmitter) that transmits a signal having a desired timing characteristic (i.e. frequency correction factor) for receipt by a remotely located receiver (103) (i.e. receivers), the transmitting portion (404) (i.e. RF package with transmitter) being driven by a feed signal from the microprocessor (408) (i.e. a processor) (col. 6 lines 17-54 and col. 8 lines 1-23; see Figures 1, 3 and 4).

However, Moore did not explicitly disclose an oscillator that is at least partially resident within the microprocessor; the microprocessor being programmed to alter a baud rate used to generate the feed signal to compensate for a difference between the desired timing characteristic and an actual timing characteristic of the transmitted signal.

In the same field of endeavor of controlling a microprocessor performance, Kelly III discloses an oscillator that is at least partially resident within the microprocessor (col. 7 lines 10-17; see Figures 15 and 18) oscillating at 4 MHz.

One of ordinary skill in the art understands that the idea of having an oscillator resident within the microprocessor of Kelly III is desirable in the communication unit (108) of Moore because Moore discloses the Digital Signal Processor (310) is coupled to an oscillator (318) for the determining the frequency correction factor (col. 6 lines 49-51) and Kelly III teaches an oscillator is within the microprocessor (col. 7 lines 10-16). Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to include oscillator that is at least partially resident within the microprocessor disclosed by Kelly III into communication unit of Moore with the motivation for doing so would allow less space consuming and cost of parts.

However, Moore in view of Kelly III did not explicitly disclose the microprocessor being programmed to alter a baud rate used to generate the feed signal to compensate for a difference between the desired timing characteristic and an actual timing characteristic of the transmitted signal.

In the same field of endeavor of communication method, Dorenbosch et al. disclose the microprocessor (412) (i.e. a processing system) being programmed to alter a baud rate (i.e. transmission data rate) used to generate the feed signal to compensate for a difference between the desired timing characteristic and an actual timing characteristic of the transmitted signal (col. 4 lines 40-49; see Figures 1 and 4) in order for the controller to adjusts the transmission baud rate of the message transmitted by a radio transceiver in response to the signal quality level.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to include the processing system being

programmed to alter a baud rate used to adjust the rate response to the signal quality level disclosed by Dorenbosch et al. into transmitting portion of Moore in view of Kelly III with the motivation for doing so would allow the measurement of signal transition over time.

Referring to claim 20, Moore disclose a transmitter of claim 11, claim 20 is equivalent to that of claim 19 addressed above, incorporated herein. Therefore, claim 20 is rejected for same reasons given with respected to claim 19.

Claims 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore (US# 5,450,617) in view of Kelly III (US# 4,811,255), Dorenbosch et al. (US# 5,801,639) and further in view of Ralson et al. (US# 5,917,779).

Referring to claim 12, Moore in view of Kelly III and Dorenbosch et al. disclose the transmitter of claim 11. However, Moor in view of Kelly III and Dorenbosch et al. did not explicitly disclose wherein the oscillator comprises an RC oscillator having a capacitive element within the microprocessor and a resistive element coupled with the capacitive element.

In the same field of endeavor of controlling a microprocessor chip performance, Ralson et al. disclose the oscillator comprises an RC oscillator having a capacitive element within the microprocessor and a resistive element coupled with the capacitive

element (col. 8 lines 17-24; see Figure 2) in order to determines the frequency corresponding to 1/RC.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to include the oscillator comprises an RC oscillator having a capacitance within the microprocessor chip and a resistor coupled with the capacitive element disclosed by Ralson et al. into system of Moore in view of Kelly III and Dorenbosch et al. with the motivation for doing so would allow less space consuming and cost of parts.

Referring to claim 13, Moore in view of Kelly III, Dorenbosch et al. and Ralson et al. disclose the transmitter of claim 12. Ralson et al. disclose further wherein the resistive element is outside of the microprocessor (col. 8 lines 17-24; see Figure 2).

Claims 14-17 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore (US# 5,450,617) in view of Kelly III (US# 4,811,255).

Referring to claim 14, "remote keyless entry system" is in a preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See In re Hirao, 535 F.2d 67, 190

USPQ 15 (CCPA 1976) and Kropa v. Robie, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Referring to claim 14, Moore discloses a method, to the extent of claim 1 above. Kelly III discloses an oscillator that is at least partially resident within the microprocessor (col. 7 lines 10-17; see Figures 15 and 18) oscillating at 4 MHz.

Referring to claim 15, Moore disclose a method in claim 1, claim 15 is equivalent to that of claim 6 addressed above, incorporated herein. Therefore, claim 15 is rejected for same reasons given with respected to claim 6.

Referring to claim 16, Moore disclose a method in claim 1, claim 16 is equivalent to that of claim 8 addressed above, incorporated herein. Therefore, claim 16 is rejected for same reasons given with respected to claim 8.

Referring to claim 17, Moore disclose a method in claim 1, claim 17 is equivalent to that of claim 9 addressed above, incorporated herein. Therefore, claim 17 is rejected for same reasons given with respected to claim 9.

Referring to claim 22, Moore disclose a method of claim 14, claim 22 is equivalent to that of claim 19 addressed above, incorporated herein. Therefore, claim 22 is rejected for same reasons given with respected to claim 19.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Scott Au

SA

BRIAN ZIMMERMAN
PRIMARY EXAMINER